

# Title 17-A: MAINE CRIMINAL CODE

## Chapter 1: PRELIMINARY

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**Maine Revised Statutes**  
**Title 17-A: MAINE CRIMINAL CODE**  
**Chapter 1: PRELIMINARY**

**§1. TITLE; EFFECTIVE DATE; SEVERABILITY**

1. Title 17-A shall be known and may be cited as the Maine Criminal Code. When it is alleged that an element occurred "on or about" any date prior to the effective date of the code, the prosecution shall be governed by the prior law. When it is alleged that all of the elements occurred "on or about" the effective date of the code or any date thereafter, the prosecution shall be governed by the code.

[ 1975, c. 740, §9-A (RPR) .]

2. Except as provided in section 4-A, this code shall become effective May 1, 1976, and it shall apply only to crimes committed subsequent to its effective date. Prosecution for crimes repealed by this code, which are committed prior to the effective date shall be governed by the prior law which is continued in effect for that purpose as if this code were not in force; provided that in any such prosecution the court may, with the consent of the defendant, impose sentence under the provisions of the code. In such cases, the sentencing authority of the court is determined by the application to the prior law of section 4-A, subsection 3, which became effective for this purpose May 1, 1976. For purposes of this section, a crime was committed subsequent to the effective date if all of the elements of the crime occurred on or after that date; a crime was not committed subsequent to the effective date if any element thereof occurred prior to that date, or if the evidence may reasonably be interpreted to establish that any element may have occurred prior to that date.

[ 1981, c. 324, §1 (AMD) .]

3. If any provision or clause of this code or application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of the code which can be given effect without the invalid provision or application, and to this end the provisions of this code are declared to be severable.

[ 1975, c. 499, §1 (NEW) .]

**SECTION HISTORY**

1975, c. 499, §1 (NEW). 1975, c. 649, §1 (AMD). 1975, c. 699, §1 (AMD). 1975, c. 740, §§9-A,10 (AMD). 1977, c. 78, §118 (AMD). 1981, c. 324, §1 (AMD) .

**§2. DEFINITIONS**

As used in this code, unless a different meaning is plainly required, the following words and variants thereof have the following meanings. [1975, c. 499, §1 (NEW) .]

1. "Act" or "action" means a voluntary bodily movement.

[ 1975, c. 499, §1 (NEW) .]

2. "Acted" includes, where appropriate, possessed or omitted to act.

[ 1975, c. 499, §1 (NEW) .]

**3.** "Actor" includes, where appropriate, a person who possesses something or who omits to act.

[ 1975, c. 499, §1 (NEW) .]

**3-A.**

[ 1977, c. 510, §9 (RP) .]

**3-B.** "Another jurisdiction" means the Federal Government, the United States military, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, the United States Virgin Islands, Guam, American Samoa and each of the several states except Maine. "Another jurisdiction" also means the Passamaquoddy Tribe when that tribe has acted pursuant to Title 30, section 6209-A, subsection 1, paragraph A or B and the Penobscot Nation when that tribe has acted pursuant to Title 30, section 6209-B, subsection 1, paragraph A or B.

[ 2007, c. 476, §1 (NEW) .]

**3-C. Adult probation supervisor.** "Adult probation supervisor" means any person who:

A. Is an employee of the Department of Corrections; [2009, c. 142, §1 (NEW) .]

B. Supervises adult probation officers; and [2009, c. 142, §1 (NEW) .]

C. Is trained, qualified and authorized by the Commissioner of Corrections to use deadly force.  
[2009, c. 142, §1 (NEW) .]

[ 2009, c. 142, §1 (NEW) .]

**4.** "Benefit" means any gain or advantage to the actor, and includes any gain or advantage to a person other than the actor which is desired or consented to by the actor.

[ 1975, c. 499, §1 (NEW) .]

**5.** "Bodily injury" means physical pain, physical illness or any impairment of physical condition.

[ 1975, c. 499, §1 (NEW) .]

**5-A.** "Corrections officer" has the same meaning as in Title 25, section 2801-A, subsection 2.

[ 1995, c. 625, Pt. A, §19 (AMD) .]

**5-B. Corrections supervisor.** "Corrections supervisor" means any person who:

A. Is an employee of the Department of Corrections; [1995, c. 215, §1 (NEW) .]

B. Supervises corrections officers; and [1995, c. 215, §1 (NEW) .]

C. Is trained, qualified and authorized by the Commissioner of Corrections to use deadly force.  
[1995, c. 215, §1 (NEW) .]

[ 1995, c. 215, §1 (NEW) .]

**6.** "Criminal negligence" has the meaning set forth in section 35.

[ 1981, c. 324, §2 (AMD) .]

**6-A.** "Critical infrastructure" means critical public or private infrastructure resource systems involved in providing services necessary to ensure or protect the public health, safety and welfare, including, but not limited to, a public water system or a public water source; an emergency, governmental, medical, fire or law enforcement response system; a public utility system; a financial system; an educational system; or a food or clothing distribution system.

[ 2001, c. 634, §2 (NEW) . ]

**7.** "Culpable" has the meaning set forth in section 35.

[ 1981, c. 324, §2 (AMD) . ]

**8.** "Deadly force" means physical force that a person uses with the intent of causing, or that a person knows to create a substantial risk of causing, death or serious bodily injury. Except as provided in section 101, subsection 5, intentionally, knowingly or recklessly discharging a firearm in the direction of another person or at a moving vehicle constitutes deadly force.

[ 2009, c. 336, §4 (AMD) . ]

**9.** Dangerous weapon.

A. "Use of a dangerous weapon" means the use of a firearm or other weapon, device, instrument, material or substance, whether animate or inanimate, which, in the manner it is used or threatened to be used is capable of producing death or serious bodily injury. [1977, c. 510, §10 (RPR).]

B. "Armed with a dangerous weapon" means in actual possession, regardless of whether the possession is visible or concealed, of:

(1) A firearm;

(2) Any device designed as a weapon and capable of producing death or serious bodily injury; or

(3) Any other device, instrument, material or substance, whether animate or inanimate, which, in the manner it is intended to be used by the actor, is capable of producing or threatening death or serious bodily injury. For purposes of this definition, the intent may be conditional. [1977, c. 510, §10 (RPR).]

C. When used in any other context, "dangerous weapon" means a firearm or any device designed as a weapon and capable of producing death or serious bodily injury. [1977, c. 510, §10 (RPR).]

D. For purposes of this subsection, proof that a thing is presented in a covered or open manner as a dangerous weapon gives rise to a permissible inference under the Maine Rules of Evidence, Rule 303 that it, in fact, is a dangerous weapon. [2001, c. 383, §1 (AMD); 2001, c. 383, §156 (AFF) .]

[ 2001, c. 383, §1 (AMD); 2001, c. 383, §156 (AFF) . ]

**10.** "Dwelling place" means a structure that is adapted for overnight accommodation of persons, or sections of any structure similarly adapted. A dwelling place does not include garages or other structures, whether adjacent or attached to the dwelling place, that are used solely for the storage of property or structures formerly used as dwelling places that are uninhabitable. It is immaterial whether a person is actually present.

[ 2011, c. 691, Pt. A, §11 (AMD) . ]

**11.** "Element of the crime" has the meaning set forth in section 32.

[ 1981, c. 324, §2 (AMD) . ]

**12.** "Financial institution" means a bank, insurance company, credit union, safety deposit company, savings and loan association, investment trust, or other organization held out to the public as a place of deposit of funds or medium of savings or collective investment.

[ 1975, c. 499, §1 (NEW) .]

**12-A.** "Firearm" means any weapon, whether loaded or unloaded, which is designed to expel a projectile by the action of an explosive and includes any such weapon commonly referred to as a pistol, revolver, rifle, gun, machine gun or shotgun. Any weapon which can be made into a firearm by the insertion of a firing pin, or other similar thing, or by repair, is a firearm.

[ 1983, c. 219, (AMD) .]

**13.** "Government" means the United States, any state or any county, municipality or other political unit within territory belonging to the State, the United States, or any department, agency or subdivision of any of the foregoing, or any corporation or other association carrying out the functions of government or formed pursuant to interstate compact or international treaty.

[ 1975, c. 499, §1 (NEW) .]

**14.** "He" means, where appropriate, "she," or an organization.

[ 1975, c. 499, §1 (NEW) .]

**15.** "Intentionally" has the meaning set forth in section 35.

[ 1981, c. 324, §2 (AMD) .]

**16.** "Knowingly" has the meaning set forth in section 35.

[ 1981, c. 324, §2 (AMD) .]

**17.** "Law enforcement officer" means any person who by virtue of public employment is vested by law with a duty to maintain public order, to prosecute offenders, to make arrests for crimes, whether that duty extends to all crimes or is limited to specific crimes, or to perform probation functions or who is an adult probation supervisor.

[ 2013, c. 133, §5 (AMD) .]

**18.** "Nondeadly force" means any physical force which is not deadly force.

[ 1975, c. 499, §1 (NEW) .]

**19.** "Organization" means a corporation, partnership or unincorporated association.

[ 1975, c. 499, §1 (NEW) .]

**20.** "Person" means a human being or an organization.

[ 1975, c. 499, §1 (NEW) .]

**21.** "Public servant" means any official officer or employee of any branch of government and any person participating as juror, advisor, consultant or otherwise, in performing a governmental function. A person is considered a public servant upon the person's election, appointment or other designation as such, although the person may not yet officially occupy that position.

[ 2007, c. 173, §2 (AMD) . ]

**21-A.** "Public utility system" includes any pipeline, gas, electric, steam, water, oil, transportation, sanitation, communication or other system operated for public use regardless of ownership.

[ 2001, c. 634, §2 (NEW) . ]

**21-B.** "Public water source" has the same meaning as in Title 22, section 2641.

[ 2001, c. 634, §2 (NEW) . ]

**21-C.** "Public water system" has the same meaning as in Title 22, section 2601, subsection 8.

[ 2001, c. 634, §2 (NEW) . ]

**22.** "Recklessly" has the meaning set forth in section 35.

[ 1981, c. 324, §2 (AMD) . ]

**23.** "Serious bodily injury" means a bodily injury which creates a substantial risk of death or which causes serious, permanent disfigurement or loss or substantial impairment of the function of any bodily member or organ, or extended convalescence necessary for recovery of physical health.

[ 1975, c. 740, §11 (AMD) . ]

**23-A.** "Strict liability crime" has the meaning set forth in section 34.

[ 1999, c. 23, §1 (NEW) . ]

**24.** "Structure" means a building or other place designed to provide protection for persons or property against weather or intrusion, but does not include vehicles and other conveyances whose primary purpose is transportation of persons or property unless such vehicle or conveyance, or a section thereof, is also a dwelling place.

[ 1977, c. 510, §12 (NEW) . ]

**25.** "Terroristic intent" means the intent to do any of the following for the purpose of intimidating or coercing a civilian population or to affect the conduct of government:

A. Cause serious bodily injury or death to multiple persons; [ 2001, c. 634, §2 (NEW) . ]

B. Cause substantial damage to multiple structures; or [ 2001, c. 634, §2 (NEW) . ]

C. Cause substantial damage to critical infrastructure. [ 2001, c. 634, §2 (NEW) . ]

[ 2001, c. 634, §2 (NEW) . ]

#### SECTION HISTORY

1975, c. 499, §1 (NEW). 1975, c. 740, §11 (AMD). 1977, c. 510, §§9-12 (AMD). 1981, c. 324, §2 (AMD). 1983, c. 219, (AMD). 1989, c. 18, §1 (AMD). 1989, c. 113, §2 (AMD). 1995, c. 215, §1 (AMD). 1995, c. 625, §A19 (AMD). 1999, c. 23, §1 (AMD). 2001, c. 383, §1 (AMD). 2001, c.

383, §156 (AFF). 2001, c. 634, §2 (AMD). 2007, c. 173, §§1, 2 (AMD). 2007, c. 476, §1 (AMD). 2009, c. 142, §§1, 2 (AMD). 2009, c. 336, §4 (AMD). 2011, c. 691, Pt. A, §11 (AMD). 2013, c. 133, §5 (AMD).

### §3. ALL CRIMES DEFINED BY STATUTE; CIVIL ACTIONS

1. No conduct constitutes a crime unless it is prohibited

A. By this code; or [1975, c. 499, §1 (NEW).]

B. By any statute or private act outside this code, including any rule, regulation or ordinance authorized by and lawfully adopted under a statute. [1977, c. 510, §13 (AMD).]

[ 1977, c. 510, §13 (AMD) .]

2. This code does not bar, suspend, or otherwise affect any right or liability for damages, penalty, forfeiture or other remedy authorized by law to be recovered or enforced in a civil action, regardless of whether the conduct involved in such civil action constitutes an offense defined in this code.

[ 1975, c. 499, §1 (NEW) .]

#### SECTION HISTORY

1975, c. 499, §1 (NEW). 1975, c. 740, §12 (AMD). 1977, c. 510, §13 (AMD).

### §4. CLASSIFICATION OF CRIMES IN THIS CODE

1. Except for murder, all crimes defined by this Code are classified for purposes of sentencing as Class A, Class B, Class C, Class D and Class E crimes.

[ 1981, c. 324, §3 (RPR) .]

2.

[ 1985, c. 282, §1 (RP) .]

3.

[ 1981, c. 324, §3 (RP) .]

#### SECTION HISTORY

1975, c. 499, §1 (NEW). 1975, c. 740, §13 (RPR). 1977, c. 510, §14 (AMD). 1981, c. 324, §3 (RPR). 1985, c. 282, §1 (AMD).

### §4-A. CRIMES AND CIVIL VIOLATIONS OUTSIDE THE CODE

1. Except as provided in section 1, subsection 2, this section becomes effective October 24, 1977.

[ 1981, c. 324, §4 (RPR) .]

2.

[ 1981, c. 324, §5 (RP) .]



**2-A.** A statute outside this code may be expressly designated as a Class A, Class B, Class C, Class D or Class E crime, in which case sentencing for violation of such a statute is governed by the provisions of this code.

[ 1981, c. 324, §6 (NEW) .]

**3.** In statutes defining crimes which are outside this code and which are not expressly designated as Class A, Class B, Class C, Class D or Class E crimes, the class depends upon the imprisonment penalty that is provided as follows. If the maximum period authorized by the statute defining the crime:

A. Exceeds 10 years, the crime is a Class A crime; [1975, c. 740, §14 (NEW) .]

B. Exceeds 5 years, but does not exceed 10 years, the crime is a Class B crime; [1975, c. 740, §14 (NEW) .]

C. Exceeds 3 years, but does not exceed 5 years, the crime is a Class C crime; [1975, c. 740, §14 (NEW) .]

D. Exceeds one year, but does not exceed 3 years, the crime is a Class D crime; and [1975, c. 740, §14 (NEW) .]

E. Does not exceed one year, the crime is a Class E crime. [1975, c. 740, §14 (NEW) .]

[ 1975, c. 740, §14 (NEW) .]

**4.**

[ 1985, c. 282, §2 (RP) .]

**5.**

[ T. 17-A, §4-A, sub-§5 (RP) .]

#### SECTION HISTORY

1975, c. 740, §14 (NEW). 1977, c. 510, §§15,16 (AMD). 1977, c. 564, §84 (AMD). 1977, c. 661, §6 (AMD). 1981, c. 324, §§4-7 (AMD). 1981, c. 698, §91 (AMD). 1985, c. 282, §2 (AMD). 1991, c. 622, §N2 (AMD).

## §4-B. CIVIL VIOLATIONS

**1.** All civil violations are expressly declared not to be criminal offenses. They are enforceable by the Attorney General, the Attorney General's representative or any other appropriate public official in a civil action to recover what may be designated a fine, penalty or other sanction, or to secure the forfeiture that may be decreed by the law.

[ 2007, c. 173, §3 (AMD) .]

**2.** A law or ordinance may be expressly designated as a civil violation.

[ 1985, c. 282, §3 (NEW) .]

3. A law or ordinance which prohibits defined conduct, but does not provide an imprisonment penalty, is a civil violation, enforceable in accordance with subsection 1. A law or ordinance which is stated to be a criminal violation or which otherwise uses language indicating that it is a crime, but does not provide an imprisonment penalty is a civil violation, enforceable in accordance with subsection 1, unless the law or ordinance is an exception to the operation of this subsection.

[ 1985, c. 282, §3 (NEW) .]

4. Evidence obtained pursuant to an unlawful search and seizure shall not be admissible in a civil violation proceeding arising under Title 22, section 2383.

[ 1985, c. 282, §3 (NEW) .]

#### SECTION HISTORY

1985, c. 282, §3 (NEW). 2007, c. 173, §3 (AMD).

## §5. PLEADING AND PROOF

*(REPEALED)*

#### SECTION HISTORY

1975, c. 499, §1 (NEW). 1975, c. 740, §§15,16 (AMD). 1981, c. 324, §8 (RP).

## §6. APPLICATION TO CRIMES OUTSIDE THE CODE

1. The provisions of Parts 1 and 3 and chapter 7 are applicable to crimes defined outside this code, unless the context of the statute defining the crime clearly requires otherwise.

[ 1989, c. 502, Pt. D, §9 (AMD) .]

2.

[ 1977, c. 510, §17 (RP) .]

3.

[ 1977, c. 510, §17 (RP) .]

#### SECTION HISTORY

1975, c. 499, §1 (NEW). 1975, c. 740, §§16-A (RPR). 1977, c. 510, §17 (AMD). 1981, c. 324, §9 (AMD). 1989, c. 502, §D9 (AMD).

## §7. TERRITORIAL APPLICABILITY

1. Except as otherwise provided in this section, a person may be convicted under the laws of this State for any crime committed by the person's own conduct or by the conduct of another for which the person is legally accountable only if:

A. Either the conduct that is an element of the crime or the result that is such an element occurs within this State or has a territorial relationship to this State; [2007, c. 173, §4 (AMD) .]

B. Conduct occurring outside this State constitutes an attempt to commit a crime under the laws of this State and the intent is that the crime take place within this State; [1975, c. 499, §1 (NEW) .]

C. Conduct occurring outside this State would constitute a criminal conspiracy under the laws of this State, an overt act in furtherance of the conspiracy occurs within this State or has a territorial relationship to this State, and the object of the conspiracy is that a crime take place within this State; [1979, c. 512, §16 (AMD).]

D. Conduct occurring within this State or having a territorial relationship to this State would constitute complicity in the commission of, or an attempt, solicitation or conspiracy to commit an offense in another jurisdiction that is also a crime under the law of this State; [2007, c. 173, §4 (AMD).]

E. The crime consists of the omission to perform a duty imposed on a person by the law of this State, regardless of where that person is when the omission occurs; [2007, c. 173, §4 (AMD).]

F. The crime is based on a statute of this State that expressly prohibits conduct outside the State, when the person knows or should know that the person's conduct affects an interest of the State protected by that statute; or [2007, c. 173, §4 (AMD).]

G. Jurisdiction is otherwise provided by law. [1975, c. 499, §1 (NEW).]

[ 2007, c. 173, §4 (AMD) .]

2. Subsection 1, paragraph A does not apply if:

A. Causing a particular result or danger of causing that result is an element and the result occurs or is designed or likely to occur only in another jurisdiction where the conduct charged would not constitute an offense; or [1975, c. 499, §1 (NEW).]

B. Causing a particular result is an element of the crime and the result is caused by conduct occurring outside the State which would not constitute an offense if the result had occurred there. [1975, c. 499, §1 (NEW).]

[ 1975, c. 499, §1 (NEW) .]

3. When the crime is homicide, a person may be convicted under the laws of this State if either the death of the victim or the bodily impact causing death occurred within the State or had a territorial relationship to the State. Proof that the body of a homicide victim is found within this State gives rise to a permissible inference under the Maine Rules of Evidence, Rule 303 that such death or impact occurred within the State. When the crime is theft, a person may be convicted under the laws of this State if that person obtained property of another, as defined in chapter 15, section 352, outside of this State and brought the property into the State.

[ 2001, c. 383, §2 (AMD); 2001, c. 383, §156 (AFF) .]

4. Conduct or a result has a territorial relationship to this State if it is not possible to determine beyond a reasonable doubt that it occurred inside or outside of this State, because a boundary cannot be precisely located or the location of any person cannot be precisely established in relation to a boundary, and if the court determines that this State has a substantial interest in prohibiting the conduct or result. In determining whether this State has a substantial interest, the court shall consider the following factors:

A. The relationship to this State of the actor or actors and of persons affected by the conduct or result, whether as citizens, residents or visitors; [1979, c. 512, §19 (NEW).]

B. The location of the actor or actors and persons affected by the conduct or result prior to and after the conduct or result; [1979, c. 512, §19 (NEW).]

C. The place in which other crimes, if any, in the same criminal episode were committed; and [1981, c. 470, Pt. A, §36 (AMD).]

D. The place in which the intent to commit the crime was formed. [1979, c. 512, §19 (NEW).]

[ 1981, c. 470, Pt. A, §36 (AMD) .]

5. The existence of territorial jurisdiction must be proved beyond a reasonable doubt.

[ 1981, c. 324, §10 (NEW) .]

#### SECTION HISTORY

1975, c. 499, §1 (NEW). 1979, c. 512, §§15-19 (AMD). 1981, c. 324, §10 (AMD). 1981, c. 470, §A36 (AMD). 2001, c. 383, §2 (AMD). 2001, c. 383, §156 (AFF). 2007, c. 173, §4 (AMD).

## §8. STATUTE OF LIMITATIONS

1. It is a defense that prosecution was commenced after the expiration of the applicable period of limitations provided in this section; provided that a prosecution for murder or criminal homicide in the first or 2nd degree, or, if the victim had not attained the age of 16 years at the time of the crime, a prosecution for: incest; unlawful sexual contact; sexual abuse of a minor; rape or gross sexual assault, formerly denominated as gross sexual misconduct, may be commenced at any time.

[ 1999, c. 438, §1 (AMD) .]

2. Except as provided in subsection 2-A, prosecutions for crimes other than murder or criminal homicide in the first or 2nd degree, or, if the victim had not attained the age of 16 years at the time of the crime, prosecutions for: incest; unlawful sexual contact; sexual abuse of a minor; rape or gross sexual assault, formerly denominated as gross sexual misconduct, are subject to the following periods of limitations:

A. A prosecution for a Class A, Class B or Class C crime must be commenced within 6 years after it is committed; and [1981, c. 470, Pt. A, §38 (AMD).]

B. A prosecution for a Class D or Class E crime must be commenced within 3 years after it is committed. [1975, c. 499, §1 (NEW).]

[ 2013, c. 392, §1 (AMD) .]

**2-A.** A prosecution for a Class A, Class B or Class C crime involving unlawful sexual contact or gross sexual assault must be commenced within 8 years after it is committed.

This subsection does not apply to a Class D crime enhanced to a Class C crime pursuant to section 1252, subsection 4-A.

[ 2013, c. 392, §2 (NEW) .]

3. The periods of limitations shall not run:

A. During any time when the accused is absent from the State, but in no event shall this provision extend the period of limitation otherwise applicable by more than 5 years; [1987, c. 222, §3 (AMD) .]

B. During any time when a prosecution against the accused for the same crime based on the same conduct is pending in this State; or [1987, c. 222, §3 (AMD) .]

C. During any time when a prosecution against the accused for the corresponding juvenile crime based on the same conduct is pending in the Juvenile Court. For purposes of this section, pending includes any appeal period and, if an appeal is taken, any period pending its final disposition. [1987, c. 222, §3 (NEW).]

[ 1987, c. 222, §3 (AMD) .]

4. If a timely complaint, information or indictment is dismissed for any error, defect, insufficiency or irregularity, a new prosecution for the same crime based on the same conduct may be commenced within 6 months after the dismissal, or during the next session of the grand jury, whichever occurs later, even though the periods of limitations have expired at the time of such dismissal or will expire within such period of time.

[ 1981, c. 317, §4 (AMD) .]

5. If the period of limitation has expired, a prosecution may nevertheless be commenced for:

A. Any crime based upon breach of fiduciary obligation, within one year after discovery of the crime by an aggrieved party or by a person who has a legal duty to represent an aggrieved party, and who is not a party to the crime, whichever occurs first; [2007, c. 173, §5 (AMD).]

B. Any crime based upon official misconduct by a public servant, at any time when such person is in public office or employment or within 2 years thereafter. [1975, c. 499, §1 (NEW).]

C. This subsection shall in no event extend the limitation period otherwise applicable by more than 5 years. [1975, c. 499, §1 (NEW).]

[ 2007, c. 173, §5 (AMD) .]

6. For purposes of this section:

A. A crime is committed when every element thereof has occurred, or if the crime consists of a continuing course of conduct, at the time when the course of conduct or the defendant's complicity therein is terminated; and [1975, c. 499, §1 (NEW).]

B. A prosecution is commenced whenever one of the following occurs:

(1) A criminal complaint is filed;

(2) An indictment is returned; or

(3) Following waiver of an indictment, an information is filed. [1987, c. 222, §4 (RPR) .]

[ 1987, c. 222, §4 (AMD) .]

7. The defense established by this section shall not bar a conviction of a crime included in the crime charged, notwithstanding that the period of limitation has expired for the included crime, if as to the crime charged the period of limitation has not expired or there is no such period, and there is evidence which would sustain a conviction for the crime charged.

[ 1975, c. 499, §1 (NEW) .]

#### SECTION HISTORY

1975, c. 499, §1 (NEW). 1977, c. 510, §18 (AMD). 1981, c. 317, §4 (AMD). 1981, c. 470, §§A37-A38 (AMD). 1987, c. 222, §§3, 4 (AMD). 1991, c. 585, §§1, 2 (AMD). 1999, c. 438, §§1, 2 (AMD). 2007, c. 173, §5 (AMD). 2013, c. 392, §§1, 2 (AMD).

## §9. INDICTMENT AND JURISDICTION

Notwithstanding any other provision of law: [1975, c. 499, §1 (NEW) .]

1. All proceedings for Class A, B and C crimes must be prosecuted by indictment, unless indictment is waived, in which case prosecution must be as the Supreme Judicial Court provides by rule;

[ 1997, c. 4, §2 (AMD) .]

2. All proceedings for murder shall be prosecuted by indictment; and

[ 1977, c. 510, §19 (AMD) .]

3. The District Courts have jurisdiction to try civil violations and Class D and E crimes and to impose sentence in Class A, B and C crimes in which the District Court has accepted a plea of guilty.

[ 2005, c. 326, §2 (AMD); 2005, c. 326, §5 (AFF) .]

### SECTION HISTORY

1975, c. 499, §1 (NEW). 1975, c. 740, §17 (AMD). 1977, c. 510, §19 (AMD). 1997, c. 4, §2 (AMD). 2005, c. 326, §2 (AMD). 2005, c. 326, §5 (AFF) .

## §9-A. ALLEGATION OF PRIOR CONVICTION WHEN SENTENCE ENHANCED

1. Except as otherwise provided by law, a prior conviction must be specially alleged if the sentencing provision of a crime requires that a present sentence be enhanced because the person has been previously convicted of a specified crime. For the purpose of this section, a sentence is enhanced only if the maximum sentence that may be imposed is increased or a mandatory minimum nonsuspendable sentence must be imposed. The Supreme Judicial Court shall provide by rule the manner of alleging the prior conviction in a charging instrument and conditions for using that prior conviction at trial.

[ 1999, c. 196, §2 (NEW) .]

2. Proof that the name and date of birth of the person charged with the current principal offense are the same as those of the person who has been convicted of the prior offense gives rise to a permissible inference under the Maine Rules of Evidence, Rule 303 that the person charged with the current principal offense is the same person as that person convicted of the prior offense.

[ 2001, c. 383, §3 (AMD); 2001, c. 383, §156 (AFF) .]

3. Prior convictions may be considered for purposes of enhancing a present sentence if the date of each prior conviction precedes the commission of the offense being enhanced by no more than 10 years, except as otherwise provided by law. More than one prior conviction may have occurred on the same day. The date of conviction is deemed to be the date that the sentence is imposed, even though an appeal was taken.

[ 2001, c. 383, §4 (NEW); 2001, c. 383, §156 (AFF) .]

4. Proof of the date stated in a complaint, information, indictment or other formal charging instrument gives rise to a permissible inference under the Maine Rules of Evidence, Rule 303 that such a date is the date the offense was committed, notwithstanding the use of the words "on or about" or the equivalent. The convictions of 2 or more prior offenses that were committed within a 3-day period are considered a single conviction for purposes of this section.

[ 2001, c. 383, §4 (NEW); 2001, c. 383, §156 (AFF) .]

#### SECTION HISTORY

1999, c. 196, §2 (NEW). 2001, c. 383, §§3,4 (AMD). 2001, c. 383, §156 (AFF).

## §10. DEFINITIONS OF CULPABLE STATES OF MIND

*(REPEALED)*

#### SECTION HISTORY

1975, c. 499, §1 (NEW). 1975, c. 740, §18 (AMD). 1977, c. 510, §§20-23 (AMD). 1981, c. 324, §11 (RP).

## §10-A. JURISDICTION OVER JUVENILES

1. A criminal proceeding may not be commenced against any person who had not attained 18 years of age at the time of the alleged crime, except as the result of a finding of probable cause authorized by Title 15, section 3101, subsection 4, or in regard to the offenses over which juvenile courts have no jurisdiction, as provided in Title 15, section 3101, subsection 2.

[ 2007, c. 173, §6 (AMD) .]

2. When it appears that the defendant's age, at the time the crime charged was committed, may have been such that the court lacks jurisdiction by reason stated in subsection 1, the court shall hold a hearing on the matter and the burden shall be on the State to establish the court's jurisdiction, as defined by subsection 1, by a preponderance of the evidence.

[ 1981, c. 324, §12 (NEW) .]

#### SECTION HISTORY

1981, c. 324, §12 (NEW). 2007, c. 173, §6 (AMD).

## §11. REQUIREMENT OF CULPABLE MENTAL STATES; LIABILITY WITHOUT CULPABILITY

*(REPEALED)*

#### SECTION HISTORY

1975, c. 499, §1 (NEW). 1975, c. 740, §19 (AMD). 1981, c. 317, §5 (AMD). 1981, c. 324, §13 (RP). 1981, c. 470, §§B5,7-A (RP).

## §12. DE MINIMIS INFRACTIONS

1. The court may dismiss a prosecution if, upon notice to or motion of the prosecutor and opportunity to be heard, having regard to the nature of the conduct alleged and the nature of the attendant circumstances, it finds the defendant's conduct:

A. Was within a customary license or tolerance, which was not expressly refused by the person whose interest was infringed and which is not inconsistent with the purpose of the law defining the crime; or [1975, c. 499, §1 (NEW).]

B. Did not actually cause or threaten the harm sought to be prevented by the law defining the crime or did so only to an extent too trivial to warrant the condemnation of conviction; or [1975, c. 499, §1 (NEW).]

C. Presents such other extenuations that it cannot reasonably be regarded as envisaged by the Legislature in defining the crime. [1975, c. 499, §1 (NEW).]

[ 1975, c. 499, §1 (NEW) .]

2. The court shall not dismiss a prosecution under this section without filing a written statement of its reasons.

[ 1975, c. 499, §1 (NEW) .]

#### SECTION HISTORY

1975, c. 499, §1 (NEW).

### §13. OTHER OFFENSES

1. The existence of a crime other than the one charged, but based on the same conduct or arising from the same criminal episode, for which a person may be prosecuted, whether that crime is a lesser or greater crime as to elements or sentencing classification, shall not preclude prosecution for the offense charged unless a contrary legislative intent plainly appears.

[ 1975, c. 740, §20 (NEW) .]

2.

[ 1979, c. 512, §20 (RP) .]

#### SECTION HISTORY

1975, c. 499, §1 (NEW). 1975, c. 740, §20 (RPR). 1979, c. 512, §20 (AMD).

### §13-A. INCLUDED OFFENSES

1. The court shall not instruct the jury to consider, nor shall the court as factfinder consider, a lesser included offense, as defined in subsection 2, unless on the basis of the evidence there is a rational basis for finding the defendant guilty of that lesser included offense. If a rational basis exists, the lesser included offense shall be considered by the factfinder if requested by either the State or defendant; otherwise, its consideration shall be a matter within the discretion of the court.

[ 1979, c. 512, §21 (NEW) .]

2. For purposes of this section, a lesser included offense is an offense carrying a lesser penalty which:

A. As legally defined, must necessarily be committed when the offense or alternative thereof actually charged, as legally defined, is committed. If the lesser offense is defined in a manner that it may be committed in alternative ways, each alternative which meets the above definition shall be deemed to be a lesser included offense. Facts which are a basis for sentencing classification of either the crime charged or the lesser crime shall be considered alternatives of those crimes; [1979, c. 512, §21 (NEW) .]



B. Meets the requirements of paragraph A, except that a culpable state of mind is required which is different than that charged but which results in lesser criminal liability; or [1979, c. 512, §21 (NEW).]

C. Is by statute expressly declared to be charged when the greater offense is charged. [1979, c. 512, §21 (NEW).]

[ 1979, c. 512, §21 (NEW) .]

3. The court in its discretion may instruct the jury to consider, or may as factfinder consider, any other offense or another alternative of the offense charged, although that other offense or alternative is not a lesser included offense, if:

A. On the basis of the evidence, there is a rational basis for finding the defendant guilty of the other offense; [1979, c. 512, §21 (NEW).]

B. The other offense does not carry a greater penalty than the offense charged; [1979, c. 512, §21 (NEW).]

C. Both the State and the defendant consent to the consideration of the other offenses by the factfinder; and [1979, c. 512, §21 (NEW).]

D. The defendant waives any applicable right to an indictment for the other offense.

When the other offense is defined in such a manner that it may be committed in alternative ways, the court may instruct the jury to consider, or may as factfinder consider, any alternative which meets the requirements of this subsection.

[ 1979, c. 512, §21 (NEW) .]

#### SECTION HISTORY

1979, c. 512, §21 (NEW).

## §14. SEPARATE TRIALS

A defendant shall not be subject to separate trials for multiple offenses based on the same conduct or arising from the same criminal episode, if such offenses were known to the appropriate prosecuting officer at the time of the commencement of the first trial and were within the jurisdiction of the same court and within the same venue, unless the court, on application of the prosecuting attorney or of the defendant or on its own motion, orders any such charge to be tried separately if it is satisfied that justice so requires. [1975, c. 740, §21 (AMD).]

#### SECTION HISTORY

1975, c. 499, §1 (NEW). 1975, c. 740, §21 (AMD).

## §15. WARRANTLESS ARRESTS BY A LAW ENFORCEMENT OFFICER

1. Except as otherwise specifically provided, a law enforcement officer may arrest without a warrant:

A. Any person who the officer has probable cause to believe has committed or is committing:

(1) Murder;

(2) Any Class A, Class B or Class C crime;

(3) Assault while hunting;

(4) Any offense defined in chapter 45;

(5) Assault, criminal threatening, terrorizing or stalking, if the officer reasonably believes that the person may cause injury to others unless immediately arrested;

- (5-A) Assault, criminal threatening, terrorizing, stalking, criminal mischief, obstructing the report of a crime or injury or reckless conduct if the officer reasonably believes that the person and the victim are family or household members, as defined in Title 19-A, section 4002, subsection 4;
- (5-B) Domestic violence assault, domestic violence criminal threatening, domestic violence terrorizing, domestic violence stalking or domestic violence reckless conduct;
- (6) Theft as defined in section 357, when the value of the services is \$1,000 or less if the officer reasonably believes that the person will not be apprehended unless immediately arrested;
- (7) Forgery, if the officer reasonably believes that the person will not be apprehended unless immediately arrested;
- (8) Negotiating a worthless instrument if the officer reasonably believes that the person will not be apprehended unless immediately arrested;
- (9) A violation of a condition of probation when requested by a probation officer or juvenile community corrections officer;
- (10) Violation of a condition of release in violation of Title 15, section 1026, subsection 3; Title 15, section 1027, subsection 3; Title 15, section 1051, subsection 2; and Title 15, section 1092;
- (11) Theft involving a detention under Title 17, section 3521;
- (12) Harassment, as set forth in section 506-A;
- (13) Violation of a protection order, as specified in Title 5, section 4659, subsection 2; Title 15, section 321, subsection 6; former Title 19, section 769, subsection 2; former Title 19, section 770, subsection 5; Title 19-A, section 4011, subsection 3; and Title 19-A, section 4012, subsection 5;
- (14) A violation of a sex offender registration provision under Title 34-A, chapter 15;
- (15) A violation of a requirement of administrative release when requested by the attorney for the State;
- (16) A violation of a condition of supervised release for sex offenders when requested by a probation officer;
- (17) A violation of a court-imposed deferment requirement of a deferred disposition when requested by the attorney for the State;
- (18) A violation of a condition of release as provided in Title 15, section 3203-A, subsection 9;
- (19) A violation of a condition of supervised community confinement granted pursuant to Title 34-A, section 3036-A when requested by a probation officer;
- (20) A violation of a condition of placement on community reintegration status granted pursuant to Title 34-A, sections 3810 and 4112 when requested by a juvenile community corrections officer;
- (21) A violation of a condition of furlough or other rehabilitative program authorized under Title 34-A, section 3035 when requested by a probation officer or juvenile community corrections officer;
- (22) A violation of preconviction or post-conviction bail pursuant to Title 15, section 1095, subsection 2 or section 1098, subsection 2 upon request of the attorney for the State;
- (23) Failure to appear in violation of Title 15, section 1091, subsection 1, paragraph A;
- (24) A Class D or Class E crime committed while released on preconviction or post-conviction bail;  
or
- (25) A violation of a condition of release from a community confinement monitoring program pursuant to Title 30-A, section 1659-A; and [ 2011, c. 691, Pt. A, §12 (RPR) . ]

B. Any person who has committed or is committing in the officer's presence any Class D or Class E crime. [1995, c. 680, §3 (RPR).]

[ 2011, c. 691, Pt. A, §12 (AMD) .]

2. For the purposes of subsection 1, paragraph B, criminal conduct has been committed or is being committed in the presence of a law enforcement officer when one or more of the officer's senses afford that officer personal knowledge of facts that are sufficient to warrant a prudent and cautious law enforcement officer's belief that a Class D or Class E crime is being or has just been committed and that the person arrested has committed or is committing that Class D or Class E crime. An arrest made pursuant to subsection 1, paragraph B must be made at the time of the commission of the criminal conduct, or some part thereof, or within a reasonable time thereafter or upon fresh pursuit.

[ 1995, c. 680, §3 (RPR) .]

#### SECTION HISTORY

1975, c. 740, §22 (NEW). 1977, c. 326, (AMD). 1977, c. 510, §24 (AMD). 1977, c. 671, §19 (AMD). 1977, c. 696, §169 (AMD). 1979, c. 578, §§1,7 (AMD). 1979, c. 677, §§2,18 (AMD). 1983, c. 450, §1 (AMD). 1983, c. 735, §1 (AMD). 1983, c. 795, §5 (AMD). 1983, c. 862, §47 (AMD). 1985, c. 737, §A40 (AMD). 1987, c. 758, §22 (AMD). 1987, c. 870, §11 (AMD). 1989, c. 122, §2 (AMD). RR 1991, c. 2, §50 (COR). 1991, c. 566, §1 (AMD). 1993, c. 475, §3 (AMD). 1995, c. 224, §1 (AMD). 1995, c. 356, §20 (AMD). 1995, c. 668, §2 (AMD). 1995, c. 680, §3 (RPR). 1997, c. 393, §A17 (AMD). 1997, c. 464, §3 (AMD). 1999, c. 127, §A33 (AMD). 1999, c. 644, §1 (AMD). 2001, c. 389, §1 (AMD). 2001, c. 439, §0001 (AMD). 2001, c. 667, §A34 (AMD). 2003, c. 102, §1 (AMD). 2007, c. 475, §8 (AMD). 2007, c. 518, §4 (AMD). 2009, c. 142, §3 (AMD). 2011, c. 341, §6 (AMD). 2011, c. 464, §4 (AMD). 2011, c. 691, Pt. A, §12 (AMD).

### §15-A. ISSUANCE OF SUMMONS FOR CRIMINAL OFFENSE

1. A law enforcement officer who has probable cause to believe a crime has been or is being committed by a person may issue or have delivered a written summons to that person directing that person to appear in the appropriate trial court to answer the allegation that the person has committed the crime. The summons must include the signature of the officer, a brief description of the alleged crime, the time and place of the alleged crime and the time, place and date the person is to appear in court. The form used must be the Uniform Summons and Complaint. A person to whom a summons is issued or delivered must give a written promise to appear. If the person refuses to sign the summons after having been ordered to do so by a law enforcement officer, the person commits a Class E crime. As soon as practicable after service of the summons, the officer shall cause a copy of the summons to be filed with the court.

[ 2005, c. 326, §3 (AMD); 2005, c. 326, §5 (AFF) .]

2. Any person who a law enforcement officer has probable cause to believe has committed or is committing a crime other than one listed under section 15, subsection 1, paragraph A, and to whom a law enforcement officer is authorized to deliver a summons pursuant to subsection 1, who intentionally fails or refuses to provide to that officer reasonably credible evidence of that person's correct name, address or date of birth commits a Class E crime, if the person persists in the failure or refusal after having been informed by the officer of the provisions of this subsection. If that person furnishes the officer evidence of the person's correct name, address and date of birth and the evidence does not appear to be reasonably credible, the officer shall attempt to verify the evidence as quickly as is reasonably possible. During the period the verification is being attempted, the officer may require the person to remain in the officer's presence for a period not to exceed 2 hours. During this period, if the officer reasonably believes that the officer's safety or the safety

of others present requires, the officer may search for any dangerous weapon by an external patting of that person's outer clothing. If in the course of the search the officer feels an object that the officer reasonably believes to be a dangerous weapon, the officer may take such action as is necessary to examine the object, but may take permanent possession of the object only if it is subject to forfeiture. The requirement that the person remain in the presence of the officer does not constitute an arrest. After informing that person of the provisions of this subsection, the officer may arrest the person either if the person intentionally refuses to furnish any evidence of that person's correct name, address or date of birth or if, after attempting to verify the evidence as provided for in this subsection, the officer has probable cause to believe that the person has intentionally failed to provide reasonably credible evidence of the person's correct name, address or date of birth.

[ 2003, c. 657, §2 (AMD) .]

**3.** If, at any time subsequent to an arrest made pursuant to subsection 2, it appears that the evidence of the person's correct name, address and date of birth was accurate, the person must be released from custody and any record of that custody must show that the person was released for that reason. If, upon trial for violating subsection 2, a person is acquitted on the ground that the evidence of the person's correct name, address and date of birth was accurate, the record of acquittal must show that that was the ground.

[ 2003, c. 657, §2 (AMD) .]

**4.** Any person who fails to appear in court as directed by a summons served on that person pursuant to subsection 1 or to otherwise respond in accordance with law on or before the date specified in the summons commits a Class E crime. Upon that person's failure to appear or respond, the court may issue a warrant of arrest. It is an affirmative defense to prosecution under this subsection that the failure to appear or respond resulted from just cause.

[ 1991, c. 459, §4 (AMD) .]

#### SECTION HISTORY

1987, c. 375, (NEW). 1991, c. 459, §4 (AMD). 2003, c. 657, §2 (AMD). 2005, c. 326, §3 (AMD). 2005, c. 326, §5 (AFF).

## §16. WARRANTLESS ARRESTS BY A PRIVATE PERSON

Except as otherwise specifically provided, a private person has the authority to arrest without a warrant:  
[2007, c. 173, §7 (AMD).]

**1.** Any person who the private person has probable cause to believe has committed or is committing:

A. Murder; or [1977, c. 510, §25 (RPR) .]

B. Any Class A, Class B or Class C crime. [1975, c. 740, §22 (NEW) .]

[ 2007, c. 173, §7 (AMD) .]

**2.** Any person who, in fact, is committing in the private person's presence and in a public place any of the Class D or Class E crimes described in section 207; 209; 211; 254; 255-A; 501-A, subsection 1, paragraph B; 503; 751; 806; or 1002.

A. [2007, c. 466, Pt. B, §12 (AFF); 2007, c. 466, Pt. B, §11 (RP) .]

[ 2007, c. 518, §5 (AMD) .]

3. For the purposes of subsection 2, in the presence has the same meaning given in section 15, subsection 2.

[ 1975, c. 740, §22 (NEW) .]

#### SECTION HISTORY

1975, c. 740, §22 (NEW). 1977, c. 510, §25 (AMD). 1979, c. 127, §125 (AMD). 2007, c. 144, §1 (AMD). 2007, c. 173, §7 (AMD). 2007, c. 466, Pt. B, §11 (AMD). 2007, c. 466, Pt. B, §12 (AFF). 2007, c. 518, §5 (AMD).

## §17. ENFORCEMENT OF CIVIL VIOLATIONS

1. A law enforcement officer who has probable cause to believe that a civil violation has been committed by a person must issue or have delivered a written summons to that person directing the person to appear in the District Court to answer the allegation that the person has committed the violation. The summons must include the signature of the officer, a brief description of the alleged violation, the time and place of the alleged violation and the time, place and date the person is to appear in court. The form used must be the Violation Summons and Complaint, as prescribed in Title 29-A, section 2601, for traffic infractions and the Uniform Summons and Complaint for other civil violations. A person to whom a summons is issued or delivered must give a written promise to appear. If the person refuses to sign the summons after having been ordered to do so by a law enforcement officer, the person commits a Class E crime. The law enforcement officer may not order a person to sign the summons for a civil violation unless the civil violation is an offense defined in Title 12; Title 23, section 1980; Title 28-A, section 2052; or Title 29-A.

Every law enforcement officer issuing a Violation Summons and Complaint charging the commission of a traffic infraction shall file the original of the Violation Summons and Complaint with the violations bureau within 5 days of the issuance of that Violation Summons and Complaint. Every law enforcement officer issuing a Uniform Summons and Complaint that charges the commission of an offense shall file the original of the Uniform Summons and Complaint with the District Court having jurisdiction over the offense or in such other location as instructed by the Chief Judge of the District Court without undue delay and, in any event, within 5 days after the issuance of the Uniform Summons and Complaint.

[ 2003, c. 657, §3 (AMD) .]

2. Any person to whom a law enforcement officer is authorized to issue or deliver a summons pursuant to subsection 1 who intentionally fails or refuses to provide the officer reasonably credible evidence of the person's correct name, address or date of birth commits a Class E crime, if the person persists in that failure or refusal after having been informed by the officer of the provisions of this subsection. If the person furnishes the officer evidence of that person's correct name, address and date of birth and the evidence does not appear to be reasonably credible, the officer shall attempt to verify the evidence as quickly as is reasonably possible. During the period that verification is being attempted, the officer may require the person to remain in the officer's presence for a period not to exceed 2 hours. During this period, if the officer reasonably believes that the officer's safety or the safety of others present requires, the officer may search for any dangerous weapon by an external patting of the person's outer clothing. If in the course of the search the officer feels an object that the officer reasonably believes to be a dangerous weapon, the officer may take such action as is necessary to examine the object, but may take permanent possession of the object only if it is subject to forfeiture. The requirement that the person remain in the presence of the officer does not constitute an arrest.

After informing the person of the provisions of this subsection, the officer may arrest the person either if the person intentionally refuses to furnish any evidence of that person's correct name, address or date of birth or if, after attempting to verify the evidence as provided for in this subsection, the officer has probable cause to believe that the person has intentionally failed to provide reasonably credible evidence of the person's correct name, address or date of birth.

[ 2003, c. 657, §4 (AMD) .]

3. If, at any time subsequent to an arrest made pursuant to subsection 2, it appears that the evidence of the person's correct name, address and date of birth was accurate, the person must be released from custody and any record of that custody must show that the person was released for that reason. If, upon trial for violating subsection 2, a person is acquitted on the ground that the evidence of the person's correct name, address and date of birth was accurate, the record of acquittal must show that that was the ground.

[ 2003, c. 657, §4 (AMD) .]

4. Any person who fails to appear in court as directed by a summons served on that person pursuant to subsection 1 or to otherwise respond in accordance with law on or before the date specified in the summons commits a Class E crime. Upon that person's failure to appear or respond, the court may issue a warrant of arrest. It is an affirmative defense to prosecution under this subsection that the failure to appear or respond resulted from just cause.

[ 1991, c. 459, §5 (AMD) .]

#### SECTION HISTORY

1975, c. 740, §22 (NEW). 1975, c. 770, §§81,82 (AMD). 1977, c. 671, §20 (AMD). 1985, c. 506, §§B12,13 (AMD). 1991, c. 459, §5 (AMD). 1991, c. 549, §7 (AMD). 1991, c. 549, §17 (AFF). 1991, c. 733, §5 (AMD). 1995, c. 65, §A56 (AMD). 1995, c. 65, §§A153,C15 (AFF). 2003, c. 657, §§3,4 (AMD) .

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